

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

JAMES FISCHER,

Plaintiff,

v.

VERIZON NEW YORK, INC. AND VERIZON
COMMUNICATIONS, INC.,

Defendants.

Civil Action No.: _____

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendants Verizon New York, Inc. and Verizon Communications, Inc. (“Defendants”), by and through their undersigned attorneys, Lowenstein Sandler LLP, hereby file this Notice of Removal, thereby removing from the Supreme Court of New York, in which the above-captioned action is now pending as Index No. 160404/2018, to the United States District Court for Southern District of New York, with full reservation of any and all rights, claims, and defenses of any nature whatsoever, including but not limited to, defenses related to service of process, jurisdiction, and venue. In support of this Notice, Defendant state as follows:

1. An action was filed on November 8, 2018, in the Supreme Court of New York, captioned *James Fischer v. Verizon New York Inc. and Verizon Communications Inc.*, Index No. 160404/2018 (the “State Court Action”).

2. On November 21, 2018, Defendants were served with the Summons and Complaint, attached hereto as **Exhibit A**.

3. This Notice of Removal is being filed within thirty (30) days of service of the Summons and Complaint on Defendants, in compliance with 28 U.S.C. § 1446(b).

4. The *pro se* Complaint alleges various claims under the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227 and New York’s General Business Law § 339.

5. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331, as the TCPA provides federal question jurisdiction. *See Mims v. Arrow Fin. Servs., LLC*, 565 U.S. 368, 387 (2012) (holding that TCPA claims are removable as federal-question cases).

6. This Court has supplemental jurisdiction over the related state-law claims pursuant to 28 U.S.C. § 1367(a).

7. Removal is proper under 28 U.S.C. § 1441(a) because this Court has federal subject matter jurisdiction and the Supreme Court of New York, in which this action was commenced, is within this Court's district.

8. Concurrently with the filing of this Notice of Removal, Defendants will provide notice of this Notice of Removal to Plaintiff and to the Clerk of the Court of Supreme Court of New York, as required by 28 U.S.C. §§ 1446(a) and (d).

9. Defendants' time to answer, move, or otherwise reply with the respect to the Summons and Complaint has not yet expired.

10. There are no other defendants in this matter for whom proof of consent to removal is required.

11. By filing this Notice of Removal, Defendants do not waive any defenses or claims, including without limitation, all defenses specified in Fed. R. Civ. P. 12, or any other defense.

WHEREFORE, Defendants hereby give notice that the State Court Action now pending in the Supreme Court of New York has been removed therefrom to this Court.

Dated: December 12, 2018

Respectfully submitted,

By: /s/ Gavin J. Rooney
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